



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105

January 4, 2016

Amy Kelley  
Code EV21.AK  
Naval Facilities Engineering  
Command Southwest  
1220 Pacific Highway  
Building 1, 5<sup>th</sup> Floor  
San Diego, CA 92132

Subject: Final Environmental Impact Statement for Military Readiness Activities at Fallon Range Training Complex, Nevada (CEQ# 20150339)

Dear Ms. Kelley:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

EPA reviewed the Draft Environmental Impact Statement (DEIS) and provided comments to the Air Force on March 18, 2015. We rated the DEIS as *Environmental Objections – Insufficient Information* (EO-2) based on potential impacts from unexploded ordnance and off-range munitions contamination on the Walker River Tribal Reservation, which is adjacent to bombing range B-19, and potential noncompliance with the Military Munitions Rule of the Resource Conservation and Recovery Act (RCRA). We also expressed concerns regarding tribal consultation and coordination with the Walker River Tribe, the Range Condition Assessments for assessing the potential for off-site contaminant migration, and the completeness and accuracy of the noise impact analysis. We appreciate the additional information in the FEIS that responds to these comments; however, we continue to have concerns regarding the progress of addressing off-range munitions with the Walker River Tribe and the completeness of the Range Condition Assessments, as discussed below.

The Navy provided additional information, in both the FEIS and during a June 4, 2015 conference call, regarding compliance with the Military Munitions Rule for future training scenarios where munitions fall outside the Range and onto the Walker River Indian Reservation. We are aware that, subsequent to receipt of our comment letter, the Navy initiated an update of the 2007 Memorandum of Understanding (MOU) with the Tribe that established a reporting and assistance process for the Navy to follow in the event that munitions land on the Walker River Indian Reservation or other health and safety incidents occur that affect the Tribe. The FEIS indicates that, while the MOU expired in May 2012, the Navy intends to follow the expired MOU as much as possible until an updated MOU, or other agreements with the Tribe, are in place. Since the MOU has not yet been finalized, we strongly recommend that the Record of Decision include a clear commitment to work with the Tribe to finalize the MOU in a timely manner, preferably prior to increases in training anticipated under the Proposed Action.


The 2007 MOU does not address legacy off-range munitions on the Reservation, which continue to burden the Tribe and limit use of a portion of the Reservation. According to the FEIS, the presence of

legacy munitions on the Walker River Indian Reservation became apparent to the Navy in February 1989. The FEIS indicates that the Navy intends to address the legacy off-range munitions issue by working directly with the Tribe. EPA believes that cleanup of the legacy munitions could be addressed programmatically through the Military Munitions Response Program, but if a timelier cleanup would occur through an alternative process with the Tribe, we would encourage this. As the Navy is aware, the Military Munitions Rule specifies that if a military munition is used or fired and lands off-range and is not promptly rendered safe or retrieved, it would be characterized as a solid waste and potentially subject to the corrective action authorities under RCRA Sections 3004(u), 3004(v) and 3008(h). The Navy has an obligation, at locations other than operational ranges, to clean up munitions when required under federal statutory authorities, and such cleanup may be subject to EPA oversight. The FEIS states that "the Tribe and Navy have considered several alternatives to bring closure to the legacy issue, but have not yet reached a final resolution" (p. F-14). Based on EPA's communications with the Tribal Environmental Director and the Tribal Chairman, who were unaware of any alternatives having been discussed, the context in which this has occurred is unclear. We strongly recommend that the Navy act on its stated intent to work closely with the Tribe to address the legacy munitions that remain on the Walker River Indian Reservation and that the Record of Decision clarify how this issue is being addressed.

We appreciate the Navy's response to our comments regarding the Range Condition Assessment (RCA). EPA's DEIS comments recommended that the Navy follow the guidance in the Range Sustainability Environmental Program Assessment manual and, in the next RCA, conduct the testing for perchlorate that had been eliminated from the 2008 RCA sampling. We appreciate the added discussion explaining why the Navy believes testing for perchlorate is not necessary; however, the Navy's vertical transport model demonstrated the potential for perchlorate to migrate from the surface to the groundwater table, particularly during a significant recharge event. Because perchlorate is very mobile and stable, persistent contaminant plumes can form when perchlorate salts are introduced into groundwater. Groundwater sampling is necessary to determine whether munitions are migrating off-range via groundwater. At a minimum, we continue to recommend perchlorate testing in future RCAs, consistent with the Range Sustainability Environmental Program Assessment manual.

We appreciate the opportunity to review this FEIS, as well as the Navy's offer to share the November 2015 RCA update with EPA. Please send this update, and a copy of the Record of Decision once it is signed, to EPA Region 9 at the address above (mail code ENF-4-2). If you have any questions, please contact me at 415-972-3521, or contact Karen Vitulano, the lead reviewer for this project, at 415-947-4178 or [vitulano.karen@epa.gov](mailto:vitulano.karen@epa.gov).

Sincerely,

  
Kathleen Martyn Goforth, Manager  
Environmental Review Section

cc: Bobby Sanchez, Chairperson, Walker River Paiute Tribe  
Cynthia Ocegura, Environmental Director, Walker River Paiute Tribe  
A. Joseph Sarcinella V, Esq., Senior Advisor and Liaison for Native American Affairs,  
Department of Defense